

EXHIBIT
B

D#EEGQYQSQG-JQQ

FILED IN OFFICE

CLERK OF STATE COURT

COBB COUNTY, GEORGIA

23-A-642**FEB 15, 2023 12:48 PM***Robin C. Bishop*Robin C. Bishop, Clerk of State Court
Cobb County, Georgia

In the State Court of Cobb County
State of Georgia

Cindy McClure and Alan
McClure, Plaintiffs

v.

The Kroger Co., Defendant.

)
)
)
)
)
)

Civil Action File No. _____

Renewed Complaint

Pursuant to O.C.G.A. § 9-2-61, Plaintiffs refile this Complaint against Defendant by alleging as follows.

1. This is a renewal of civil action file number 16SC-0538-A filed in the State Court of Forsyth County, Georgia.
2. The Forsyth County case was dismissed without prejudice pursuant to O.C.G.A. § 9-11-41 on August 19, 2022.
3. This renewal action has been filed within six (6) months of the dismissal without prejudice.
4. Plaintiffs have paid all costs of the original action and are entitled to bring this renewal action.
5. Plaintiffs are married to one another and are residents of Forsyth County, Georgia.
6. Defendant is a corporation authorized to do business in the State of Georgia and is subject to the jurisdiction and venue of this Court.
7. Defendant is subject to service by and through its registered agent: CSC of Cobb County, Inc., at 192 Anderson Street, S.E., Suite 125, Marietta, Cobb County, Georgia 30060.
8. At all times material hereto, the Defendant owned and/or was in control of premises located at 2325 Bethelview Road, Cumming, Georgia where it operated a business, a Kroger grocery store.
9. On or about October 3, 2014, Plaintiff Cindy McClure was a business invitee at the Defendant's Kroger store for the purpose of purchasing groceries.

10. Upon entering the said premises, Plaintiff Cindy McClure assumed the legal status of an invitee as the term is defined under Georgia Law.

11. Plaintiff Cindy McClure was shopping in the dairy section slipped and fell due to a hazard, accumulated fluid on the floor.

12. Prior to the fall Defendant's employee encountered the hazard and made no effort to clean it up or post a warning.

13. There were no warnings of the hazard at the time of the fall.

14. Plaintiff Cindy McClure was injured by the fall.

15. Plaintiff Cindy McClure suffered special damages for treatment of her injuries and general damages for pain and suffering as a result of the fall.

Count I: Breach of Statutory Duty under O.C.G.A. § 51-3-1

16. Plaintiffs incorporate all previous pled averments.

17. Defendant had a statutory duty pursuant to O.C.G.A. § 51-3-1 to exercise ordinary care in keeping its premises and approaches safe by cleaning up the fluid on the floor which constituted a hazard or by warning Plaintiff Cindy McClure of the hazard.

18. Defendant breached that duty by and through the acts of its employees who, within the scope of their employment by failing to remediate the hazard or warn Plaintiff Cindy McClure of the hazard.

19. Defendant's breach(es) are the proximate cause of Plaintiff Cindy McClure's fall and injuries.

20. Defendant is liable to Plaintiff Cindy McClure for all damages caused by its breach of O.C.G.A. § 51-3-1.

Count II: Negligence

21. Plaintiffs incorporate all previous pled averments.

22. Defendant had a duty to exercise ordinary care in keeping its premises safe by cleaning up the fluid on the floor which constituted a hazard or by warning Plaintiff Cindy McClure of the hazard.

23. Defendant breached that duty by and through the acts of its employees who, within the scope of their employment by failing to remediate the hazard or warn Plaintiff Cindy McClure of the hazard.

24. Defendant's breach constitutes negligence.

25. Defendant's negligence is the proximate cause of Plaintiff Cindy McClure's fall and injuries.

26. Defendant is liable to Plaintiff Cindy McClure for all damages caused by its negligence.

Count III: Loss of Consortium

27. Plaintiffs incorporate all previous pled averments.

28. On the 3rd day of October 2014, Plaintiff Alan McClure was and is the lawful spouse of Plaintiff Cindy McClure.

29. Prior to the injury suffered by his spouse, as a result of the negligence of the Defendant, Plaintiff Cindy McClure was a healthy, well and able-bodied person.

30. As a proximate result of the Defendant's negligence, individually, Plaintiff Alan McClure has suffered a loss of the consortium he formerly enjoyed with his spouse, including their unimpaired aid, assistance, comfort, society, companionship, company, love and conjugal fellowship and will have a loss of this consortium in the future.

31. Defendant is liable to Alan McClure for loss of consortium with Cindy McClure.

Wherefore Plaintiff prays

- A. That this Complaint be filed
- B. That Summons and Process issue
- C. That Defendant be served

- D. For a jury trial on all issues so triable
- E. For judgment against Defendant for all damages proven by the evidence
- F. That all costs be charged to Defendant
- G. For such other relief this Court deems necessary.

This 15th day of February, 2023.

/s/ J. Wickliffe Cauthorn
J. Wickliffe Cauthorn
Georgia Bar No. 907911

The Cauthorn Firm
1984 Howell Mill Road
PO Box 20059
Atlanta, Georgia 30325
wick@thecauthornfirm.com
office: (404) 991-2700

STATE COURT OF COBB COUNTY
STATE OF GEORGIA

FILED IN OFFICE
CLERK OF STATE COURT
COBB COUNTY, GEORGIA

23-A-642

FEB 15, 2023 12:48 PM

Robin C. Bishop

Robin C. Bishop, Clerk of State Court
Cobb County, Georgia

CIVIL ACTION NUMBER 23-A-642

\$248.00 COST PAID

McClure, Cindy
McClure, Alan

PLAINTIFF

VS.

The Kroger Co.

DEFENDANT

SUMMONS

TO: THE KROGER CO.

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

James Wickliffe Cauthorn
The Cauthorn Firm
201 Cherokee St
Marietta, Georgia 30060

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 15th day of February, 2023.

Clerk of State Court



Robin C. Bishop

Robin C. Bishop, Clerk of State Court
Cobb County, Georgia

General Civil and Domestic Relations Case Filing Information Form

☐ Superior or ☒ State Court of Cobb County

23-A-642

For Clerk Use Only

FEB 15, 2023 12:48 PM

Date Filed 02-15-2023Case Number 23-A-642

MM-DD-YYYY

Robin C. Bishop
Robin C. Bishop, Clerk of State Court
Cobb County, Georgia

Plaintiff(s)

McClure, Cindy

Last	First	Middle I.	Suffix	Prefix
McClure, Alan				

McClure, Alan

Last	First	Middle I.	Suffix	Prefix

Last	First	Middle I.	Suffix	Prefix

Last	First	Middle I.	Suffix	Prefix

Defendant(s)

The Kroger Co.

Last	First	Middle I.	Suffix	Prefix

Last	First	Middle I.	Suffix	Prefix

Last	First	Middle I.	Suffix	Prefix

Last	First	Middle I.	Suffix	Prefix

Plaintiff's Attorney Cauthorn, James WickliffeBar Number 907911Self-Represented ☐

Check one case type and, if applicable, one sub-type in one box.

General Civil Cases

- ☐ Automobile Tort
☐ Civil Appeal
☐ Contract
☐ Contempt/Modification/Other Post-Judgment
☐ Garnishment
☒ General Tort
☐ Habeas Corpus
☐ Injunction/Mandamus/Other Writ
☐ Landlord/Tenant
☐ Medical Malpractice Tort
☐ Product Liability Tort
☐ Real Property
☐ Restraining Petition
☐ Other General Civil

Domestic Relations Cases

- ☐ Adoption
☐ Contempt
☐ Non-payment of child support, medical support, or alimony
☐ Dissolution/Divorce/Separate Maintenance/Alimony
☐ Family Violence Petition
☐ Modification
☐ Custody/Parenting Time/Visitation
☐ Paternity/Legitimation
☐ Support – IV-D
☐ Support – Private (non-IV-D)
☐ Other Domestic Relations

- ☐ Check if the action is related to another action(s) pending or previously pending in this court involving some or all of the same parties, subject matter, or factual issues. If so, provide a case number for each.

Case Number

Case Number

- ☒ I hereby certify that the documents in this filing, including attachments and exhibits, satisfy the requirements for redaction of personal or confidential information in O.C.G.A. § 9-11-7.1.

- ☐ Is a foreign language or sign-language interpreter needed in this case? If so, provide the language(s) required.

Language(s) Required

- ☐ Do you or your client need any disability accommodations? If so, please describe the accommodation request.

ID# E-UPP4R3KL-EY5
 EFILED IN OFFICE
 CLERK OF STATE COURT
 COBB COUNTY, GEORGIA
23-A-642

AFFIDAVIT OF SERVICE

Case: 23-A-642	Court: In the State Court of Cobb County-State of Georgia	County: Cobb, GA	Job: 8397803	FEB 17, 2023 10:41 AM
Plaintiff / Petitioner: Cindy McClure and Alan McClure		Defendant / Respondent: The Kroger Co.		
Received by: InSight Investigations, Inc.		For: The Cauthorn Firm		
To be served upon: The Kroger Co.				

Robin C. Bishop
 Robin C. Bishop, Clerk of State Court
 Cobb County, Georgia

I, Michael Kotlar, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: The Kroger Co., CSC of Cobb County: 192 Anderson St SE 125, Marietta, GA 30060

Manner of Service: Registered Agent, Feb 16, 2023, 10:55 am EST

Documents: Summons; Renewed Complaint and Demand for Jury Trial; and GCDRCFIF (Received Feb 15, 2023 at 12:00am EST)

Additional Comments:

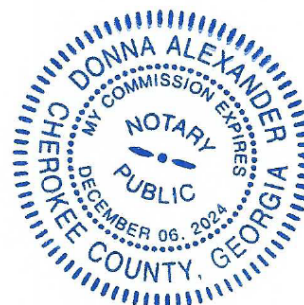
1) Successful Attempt: Feb 16, 2023, 10:55 am EST at CSC of Cobb County: 192 Anderson St SE 125, Marietta, GA 30060 received by The Kroger Co.. Age: 40-45; Ethnicity: Caucasian; Gender: Female; Weight: 250; Height: 5'4"; Hair: Brown; Eyes: Green; Relationship: Coordinator; Other: Terri Thompson ;

[Signature] 2/17/2023
 Michael Kotlar Date

InSight Investigations, Inc.
 3595 Canton Road Suite 312-307
 Marietta, GA 30066
 678-654-0186

Subscribed and sworn to before me by the affiant who is personally known to me.

[Signature]
 Notary Public 2/17/23
 Date Commission Expires



SHERIFF'S ENTRY OF SERVICECivil Action No. 23-A-642

Date Filed _____

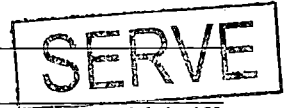
Attorney's Address **Cauthorn, James Wickliffe**
The Cauthorn Firm
201 Cherokee St
Marietta, GEORGIA 30060-

Superior Court ☐
 State Court ☒
 Juvenile Court ☐

Magistrate Court ☐
 Probate Court ☐

Georgia, COBB COUNTY

McClure, Cindy; McClure, Alan



Plaintiff

VS.

The Kroger Co.

Defendant

Name and Address of Party to be Served.

The Kroger Co.192 Anderson Street, Suite 125Marietta, GEORGIA 30060

Garnishee

SHERIFF'S ENTRY OF SERVICE

PERSONAL

☐ I have this day served the defendant _____ personally with a copy of the within action and summons.

NOTORIOUS

I have this day served the defendant _____ by leaving a copy of the action and summons at his most notorious place of abode in this County.

☐ Delivered same into hands of _____ described as follows:
 age, about _____ years; weight _____ pounds; height, about _____ feet and _____ inches, domiciled at the residence of defendant.

CORPORATION

☒ Served the defendant The Kroger Co a corporation
 by leaving a copy of the within action and summons with Tern Thompson - csc of Cobb
 in charge of the office and place of doing business of said Corporation in the County. County

TACK & MAIL

I have this day served the above styled affidavit and summons on the defendant(s) by posting a copy of the same to the door of the premises designated in said affidavit, and on the same day of such posting by depositing a true copy of the same in the United States Mail, first class in an envelope properly address to the defendant(s) at the address shown in said summons, with adequate postage affixed thereon containing notice to the defendant(s) to answer said summons at the place stated in the summons.

NON EST

☐ Diligent search made and defendant _____ not to be found in the jurisdiction of this court.

This 23 day of February, 20 23

Deputy

DEFENDANT COPY